

March 19, 2025

Tony McGhee, City Manager
City of Buchanan
302 N Redbud Trail
Buchanan, MI 49107

**RE: Proposal for Professional Services
Downtown Parking & Event Space Project**

Dear Mr. McGhee:

Abonmarche is pleased to submit this proposal to provide engineering services for the City of Buchanan's Downtown Parking & Event Space Project. This proposal is based on our current understanding of the scope of the project.

PROJECT SCOPE

It is our understanding that the proposed project consists of design and completion of construction drawings and specifications for bidding of a parking lot and flexible plaza space near Buchanan Commons Community Area in downtown Buchanan (see below). The space is intended to be a flexible utilitarian space to support the existing Community Area and farmers market adjacent to the project site. Abonmarche is happy to have secured the City of Buchanan a USDA Rural Development Business Grant (RDBG) for \$73,800 to develop plans and specifications for future bidding of the project.



We anticipate that the project will generally entail the following work:

- Topographic survey of the project area(s)
- Soil borings of Area A and Area B
- Schematic design of a parking lot in Area A and a community event plaza/flex space in Area B
 - Up to three design options will be developed on a preliminary level for review with city staff before selecting the preferred concept
- Advancement of approved schematic design into biddable construction drawings and technical specifications for contractor pricing.
- USDA Rural Development Business Grant administration and documentation.

SCOPE OF SERVICES

We have structured this proposal to follow RDBG requirements and achieve the grant's goals. The following will detail our scope of services, proposed schedule and fees for the project.

Task #1: Project Kick-Off and Programming

Abonmarche will participate in an in-person project kick-off meeting with City staff and other appropriate project stakeholders to begin the design process. The kick-off meeting will confirm:

1. Project area, ownership, and access.
2. Client, owner, developer and/or user goals, objective, and interests.
3. Neighboring property owner, tenant, and other stakeholder interests.
4. Probable proposed improvements.
5. Probable jurisdictional interests, regulations, and processes.
6. Comparable projects and best practices.
7. Budgeted costs.
8. Client and consultant responsibilities.
9. Preliminary schedule.
10. Other administrative considerations.

Abonmarche will also conduct an existing conditions site observation visit and photograph the project area and immediate surroundings in order to identify readily apparent physical conditions and patterns of use. This site visit will ideally take place with project stakeholders in order to discuss vision, goals, and ideas for the spaces.

Task #2: Topographic Survey

This task includes performing a topographic and boundary surveying of the project area and 50' beyond the proposed improvements. The survey will show boundary lines, location of the existing surface features and vegetation, observed above-ground evidence of utilities and installed storm drainage features, and will depict elevation data in one-foot interval contour lines. Data will be collected based on the Michigan State Plane Coordinate System, with elevations referenced to the North American Vertical Datum of 1988. Title work for the property will be requested from the City to complete the base planset. We will draft the existing site survey information into AutoCAD format for use as a base plan for the tasks noted below.



Task #3: Geotechnical Investigation

This task will involve subconsulting with a qualified geotechnical firm to perform soil borings and provide any necessary pavement recommendations for the parking and event space. We anticipate one soil boring at Area A at a depth of 10 feet and one soil boring at Area B at a depth of 10 feet, for a total of two borings and 20 feet total.

Task #4: Schematic Design

This task includes preparation of up to three (3) preliminary design concept plan options illustrating the organization, scale, and character of the proposed site improvements. The three concept options will include preliminary cost estimates for comparison and budgeting purposes.

We will meet with Buchanan staff to review the design options in person to gather input and preferences. Based on feedback provided, we will refine the preferred concept plan and prepare a Final Schematic Parking and Event Space Plan. This concept will be presented at a public Design Review Open House hosted by Abonmarche at the City's preferred location for any public feedback to incorporate. Once finalized, this plan will be further developed into a full planset for future competitive bidding (outside of this proposal and scope of services) in Task #5 below.

Task #5: Final Design

This task includes advancing the schematic plan into drawings and technical specifications for estimating and bidding purposes. The anticipated documents include:

1. Drawings, including the following sheets:
 - a. Cover Sheet
 - b. Topographic Survey
 - c. Standard Notes & Details
 - d. Removal Plan
 - e. Site Layout and Materials Plan
 - f. Grading Plan
 - g. Drainage and Utilities Plan, including any stormwater design necessary
 - h. Landscape Plan
 - i. Soil Erosion & Sedimentation Control Plan
 - j. Structural design for a potential modular block retaining wall as indicated in a preliminary site walk with Buchanan staff
 - k. Electrical, mechanical, and/or plumbing design for food truck utility access points and related concepts
 - l. Pre-engineered/fabricated structures
 - i. Should a pre-engineered structure be selected for shelter, community space, etc., structural and architectural details for incorporation with the site will be included. However, reference to the manufacturer's design and installation recommendations will be followed.
 - m. Construction Details



2. Written Technical Specifications that follows the requirements of the USDA RDBG Grant and accompany the scope in the planset above.
3. Final opinion of probable construction costs.

Task #6: Grant Administration

This task includes assisting the City with USDA Rural Development Business Grant administration requirements per applicable federal compliance requirements. We will also assist with preparation of grant project and expenditure reports every 90 days, and other reporting requirements as needed.

Proposed Schedule:

Based on a March 24th council approval and signed proposal soon thereafter, we anticipate proceeding according to the following schedule.

<u>Task</u>	<u>Timeline</u>
Task #1: Project Kick-Off and Programming	Early April 2025
Task #2: Topographic Survey	Early April 2025
Task #3: Geotechnical Investigation	May 2025
Task #4: Schematic Design	May – July 2025
Task #5: Final Design	July – August 2025
Task #6: Grant Administration	April – September 2025
Project Wrap-up	September 2025 per grant requirements

Proposed Fees:

Our fees to complete the above scope of services are proposed as follows:

TOTAL \$73,800.00

ADDITIONAL WORK/EXCLUSIONS

The following additional scope elements are not included with the scope of work above. If necessary, Abonmarche will submit a proposal for these additional items of work.

1. Competitive bidding assistance as excluded per grant requirements
2. Any construction assistance as excluded per grant requirements, including administration, construction staking, and materials testing
3. Architectural/structural design of a proposed structure
 - a. Any proposed structures are assumed to be manufacturer pre-engineered/fabricated products to be incorporated in the plans
4. Permitting
 - a. We anticipate the following permits will be needed for this project to be constructed and have designated who the appropriate party will be to obtain the permit:
 - i. SESC – by contractor
 - ii. Electrical service – by contractor



- iii. Right of Way permit – by contractor
 - iv. Discharge permit into McCoy Creek – assumed through the Berrien County Drain Commissioner before construction would commence. This would be applied for outside of this proposal due to grant constraints and unknown construction timeframes.
5. Illustrative 3D renderings


We appreciate the opportunity to collaborate with you on this exciting project. To authorize the commencement of the outlined work, please sign the attached Professional Services Agreement. Should you have any questions or require further clarification, feel free to reach out to my office at 231.299.2220 or via email at lbectel@abonmarche.com.

Sincerely,

ABONMARCHE



Leah Bectel, PE
Project Manager

Timothy R. Drews, PE  Digitally signed by Timothy R. Drews, PE
DN: c=US, e=tdrews@abonmarche.com,
ou=Abonmarche Consultants, Inc.,
cn=Timothy R. Drews, PE
Date: 2025.03.19 08:29:36-0400

Tim Drews, PE, PTOE, RSP
Chief Control Officer



Abonmarche Project Number: _____

 AGREEMENT between (Client name), City of Buchanan (Date) 03/19/2025

 (Client address) 302 N Redbud Trail, Buchanan, MI 49107 (Phone) 269.927.2295

 (Cell) NA (Fax) NA (Email) tmcghee@cityofbuchanan.com hereinafter referred

 to as the Client, and Abonmarche Consultants, Inc., referred to as Abonmarche, located at: 11 N 6th Street Grand Haven, MI 49417

 The Client contracts with Abonmarche to perform professional services regarding the Client's project generally referred to as:

 (Project Name) Downtown Parking & Event Space Project (Location) Buchanan, MI

 The professional services to be provided by Abonmarche, collectively referred to as the Work Plan, are as follows:

 (Scope of work) Per attached proposal dated 03/19/2025.

 (Project schedule) Per attached proposal dated 03/19/2025.

 (Special Provisions) None.

Abonmarche's proposal/work plan, dated March 19, 2025 is incorporated into this Agreement by reference, and is limited to the services described therein. Abonmarche's Terms and Conditions for Professional Services are incorporated by client's Authorization signature below.

 The Client agrees to promptly pay for services provided by Abonmarche for the Scope of Work according to the following:

 (Fee/Type) Lump Sum \$73,800


Prior to commencement of services, the Client will specify any and all documentation that the Client requires for submission with the invoice for services provided by Abonmarche. Absent any special request from the Client, Abonmarche will send its standard form of invoice.

If, after receipt of an invoice from Abonmarche, the Client has any questions, objections, or if there are any discrepancies in the invoice, the Client shall identify the issue in writing within ten (10) days of its receipt. If no written objection is made within the ten (10) day period, any such objection shall be deemed waived.

Abonmarche invoices are due upon receipt and shall be considered past due if not paid within 30 calendar days of the invoice date. The parties agree that interest of 1.5% per month will be added to any unpaid balance after 30 days. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal.

The Client has designated Tony McGhee, City Manager as its Representative. The Representative shall have the authority to execute any documents pertaining to this Agreement or amendments thereto, and for the approval of all change orders, addenda, and additional services to be performed by Abonmarche. The representative shall be the contact person for submission of all documents, invoices or communications.

Authorization to Proceed and Guarantee of Payment: By signing this Agreement, the Client authorizes Abonmarche to provide services described above, and that the Client is the responsible party for making payment to Abonmarche. *By signing below, I acknowledge that I have received and agree to the Terms and Conditions on Pages 2-4 of this Agreement, and I understand that the Terms and Conditions take precedence over all prior oral and written understandings.* These Terms and Conditions can only be amended, supplemented, modified, or canceled by a written instrument signed by both parties. Any notice or other communications shall be in writing and shall be considered to have been duly given when personally delivered or upon the third day after being deposited into first class certified mail, postage prepaid, return receipt requested.

Authorized Client Representative	If Individual	Authorized Abonmarche Representative
Client: _____	Signature: _____	Signature:  Timothy R. Drews, PE
Signature: _____	Printed Name: _____	Printed Name: Tim Drews, PE, PTOE, RSP
Printed Name: Tony McGhee	Date of Birth: _____	Title: Chief Control Officer
Date Signed: _____	Driver's License #: _____	Originating Office: Abonmarche Consultants, Inc.
Federal Tax ID: _____	Employed by: _____	95 W Main St
	Address: _____	Benton Harbor, MI 49022
	City/State _____	Date Signed: 03/19/2025
	Date Signed: _____	

TERMS AND CONDITIONS OF PROFESSIONAL SERVICES AGREEMENT

1. **Agreement.** These Terms and Conditions shall be incorporated by reference and shall prevail as the basis of the Client's Agreement to Abonmarche. Any Client document or communication in addition to or in conflict with these Terms and Conditions shall be subordinate and subject to these provisions.
2. **Execution.** Abonmarche has the option to render this Agreement null and void, if it is not executed within thirty (30) days of delivery.
3. **Client Responsibilities.** The Client will provide all criteria and information concerning the requirements of the Project. Abonmarche shall be entitled to rely on the accuracy and completeness of services and information furnished by the Client, including services and information provided by design professionals or consultants directly to the Client. These services and information include, but are not limited to, surveys, tests, reports, diagrams, drawings, and legal information. The Client will assume responsibility for interpretation of contract documents and for construction observation and will waive all claims against Abonmarche that may be in any way connected, unless Abonmarche's services under this Agreement include full-time construction observation or review of contractor's performance. The Client shall designate in writing a person with authority to act on Client's behalf on all matters related to Abonmarche's services.
4. **Performance.** The standard of care for services performed by or provided by Abonmarche will be the care and skill ordinarily used by Abonmarche's profession practicing under similar circumstances at the same time and in the same locality. Abonmarche makes no warranty, expressed or implied, with respect to any services provided by Abonmarche. Abonmarche may be liable for claims, damages, cost, loss or expense (including reasonable attorney's fees) to the extent caused by the negligent acts, errors, or omissions of Abonmarche.
5. **Billing and Payment.** The client shall make an initial payment of \$0 _____ (retainer) upon execution of this Agreement. The retainer shall be held by Abonmarche and applied against the final invoice. If the Client fails to make payments when due and Abonmarche incurs any costs in order to collect overdue sums from the Client, the Client agrees that all such collection costs incurred shall immediately become due and payable to Abonmarche. Collection costs shall include, without limitation, legal fees, collection agency fees and expenses, court costs, collection bonds and reasonable Abonmarche staff costs at standard billing rates for Abonmarche's time spent in efforts to collect. This obligation of the Client to pay Abonmarche's collection costs shall survive the term of this Agreement or any earlier termination by either party.
6. **Hourly Billing Rates.** If payment is on an hourly rate, Client will pay Abonmarche at the current hourly billing rates. The hourly rates are adjusted annually or as deemed appropriate.
7. **Reimbursable Expenses.** Reimbursable expenses, the actual costs incurred directly or indirectly for the Client's Project, will be charged at Abonmarche's current rates. Examples of reimbursable expenses include, but are not limited to: mileage, tests and analyses, special equipment services, postage and delivery charges, telephone and telefax charges, copying, printing, and binding charges, commercial transportation, meals, lodging, special fees, licenses, and permits. Subconsultant and outside technical or professional services will be charged on the basis of the actual costs times a factor of 1.15.
8. **Additional Services.** Additional services that may be provided pursuant to the Agreement or any subsequent modification of the Agreement will be authorized by written amendment signed on behalf of the Client and Abonmarche. Additional services performed by

Abonmarche are subject to all Terms and Conditions and the Client will be responsible for payment. Should the Client, regulatory agency, or any public body or inspector direct modification or addition to services covered by this Agreement, including costs relating to the relationship between the Client and a third party i.e. punch lists, change orders, and disputes, the cost will be added to the agreed price. Requests for extra services should be made in writing via a change order, but nonetheless, Abonmarche is entitled to be paid for extra services provided whether or not it is in writing.

9. **Underground Structures or Buried Utilities.** The Client is responsible for identification and location of all public and private buried structures on the Client's property and the Project site, such as, but not limited to, storage tanks and lines, or gas, water, sewer, electrical, phone, cable, or any other public or private utilities. It is agreed that Abonmarche is not responsible for accidental damage to utilities or underground structures, whether known, unknown or improperly located. The client shall be responsible for design fees if changes are necessary. Utility locating or marking services provided by Abonmarche are not substitutes for complying with the utility owner notification requirements or the locating services (811 systems) required prior to an excavation. Utilities shown as located by ground penetrating radar are approximate only. No excavation took place to verify the positions shown or to verify the type of utility (except as noted). Careful excavation is required for verification of the buried utility. The owner or customer assumes the risk of error and the actual location of the underground utility. Abonmarche is not providing any certification or guarantee regarding the exact location of any underground utility.
10. **Hazardous or Contaminated Materials/Conditions.** Abonmarche does not provide environmental services. As such, Client will advise Abonmarche, in writing and prior to the commencement of services, of all known or suspected hazardous or contaminated materials/conditions present at the site(s). Abonmarche and the Client agree that the discovery of unknown or unconfirmed hazardous or contaminated materials/conditions constitutes a changed condition that may require Abonmarche to renegotiate the scope of work or terminate its services. Abonmarche and Client also agree that the discovery of said materials/conditions may make it necessary for Abonmarche to take immediate measures to protect health, safety, and welfare of those performing services. Client agrees to compensate Abonmarche for any costs incident to the discovery of said materials/conditions. Client acknowledges that Abonmarche cannot guarantee that contaminants do not exist at a project site. Similarly, a site which is in fact unaffected by contaminants at the time of Abonmarche's surface or subsurface exploration may later, due to natural phenomenon or human intervention, become contaminated. Client waives any claim against Abonmarche, and agrees to defend, indemnify and hold Abonmarche harmless from any claims or liability for injury or loss in the event that Abonmarche does not detect the presence of contaminants through techniques commonly applied in the provision of their services.
11. **Underground Conditions.** Abonmarche shall have no responsibility for the identification of existing or unforeseen/differing underground conditions. The Contractor shall have sole responsibility for determining the nature of underground conditions and the means and methods of dealing with those conditions. Abonmarche is entitled to rely upon the information provided by geotechnical consultants and shall have no responsibility for the accuracy or correctness of the data contained in the geotechnical reports.
12. **Site Access and Security.** With the exception of access rights that land surveyors are afforded by law, the Client will provide Abonmarche access to the Project site and the Client will be responsible for obtaining any necessary

permission from any affected third-party property owners for use of their lands. The Client is solely responsible for site security.

13. **Consultants.** Abonmarche may engage Consultants at the request of the Client to perform services which are typically the Client's responsibility, such as surveys, geotechnical and environmental assessments. The Client agrees that Abonmarche will not be responsible for, or in any manner guarantee, the performance of services by the Consultants. The Client further agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless Abonmarche, its officers, directors, employees and subconsultants (collectively, Abonmarche) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising or allegedly arising from subsurface penetrations in locations authorized by the Client or from the inaccuracy or incompleteness of information provided to Abonmarche by the Client, except for damages caused by the sole negligence or willful misconduct of Abonmarche.
14. **Opinions of Cost.** Any opinions of probable construction cost and/or total project cost provided by Abonmarche will be on the basis of experience and judgment, but these are only estimates. Abonmarche has no control over market or contracting conditions and does not warrant that bids or ultimate construction or total project costs will not vary from such estimates.
15. **Ownership of Instruments of Service.** Abonmarche will remain the owner of all original drawings, reports, and other materials provided to the Client, whether in hard copy or electronic media form. The Client is authorized to use the copies provided by Abonmarche only in connection with the Project. Any other use or reuse by the Client for any purposes whatever will be at the Client's risk and full legal responsibility, without liability to Abonmarche and the Client will defend, indemnify, and hold Abonmarche harmless from all claims, damages, losses, and expenses, including attorney fees arising out of or resulting there from.
16. **Electronic Media.** Copies of data, reports, drawings, specifications, and other materials furnished by Abonmarche that may be relied upon by the Client are limited to the printed copies (also known as hard copies) that are delivered to the Client pursuant to the services under this Agreement. Computer files of text, data, graphics, or of other types of electronic media are the sole possession of Abonmarche, unless specifically stated otherwise in an amendment to this Agreement. Any electronic media provided under this Agreement to the Client are only for the convenience of the Client. Any conclusions or information obtained or derived from such electronic files will be at the user's sole risk.
17. **Bonds and Permits.** The Client will be responsible for the adoption of any site access or right of way bonds that may be initiated on their behalf. At completion of Abonmarche's services, the Client will take responsibility and pay any ongoing bond or permit costs for any bonded or permitted services.
18. **Insurance.** The Client will cause Abonmarche and Abonmarche's employees to be listed as additional insured on the general liability policies carried by the Client that are applicable to the Project. Upon request, the Client and Abonmarche will each deliver to the other certificates of insurance evidencing their coverage. The Client will require the Contractor to purchase and maintain general liability, automobile liability, workers compensation and other insurance as specified in the Contract Documents and to cause Abonmarche and Abonmarche's employees to be listed as additional insured with on a primary and non-contributory basis under the general liability and automobile insurance policies as respect to such liability and other insurance purchased and maintained by the Contractor for the Project. A certificate of insurance evidencing the additional insured and primary coverage status of Abonmarche under the General and Automobile liability from the Contractor shall be provided to Abonmarche.
19. **Third Party Invoicing.** If the Client directs Abonmarche to invoice third party payers, Abonmarche will do so, but the Client agrees to be ultimately responsible for Abonmarche's compensation until the Client provides Abonmarche with the third party's written acceptance of all terms of this Agreement and until Abonmarche agrees to the substitution.
20. **Third Party Beneficiaries.** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Abonmarche. Abonmarche's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against Abonmarche because of this Agreement or performance or nonperformance of services hereunder. The Client and Abonmarche agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.
21. **Suspension of Services.** In the event of non-payment or other breach by Client, Abonmarche will have the absolute right and without any liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Upon payment in full by the Client, Abonmarche shall resume services under this Agreement, and the schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for Abonmarche to resume performance.
22. **Contractor's Work.** Abonmarche shall have no authority to direct or control the Work of the Contractor or to stop the Work of the Contractor. Abonmarche shall not be liable to any party for the failure of the Contractor to perform the Work consistent with the Plans and Specifications and applicable Codes and Regulations. Neither the performance of the services by Abonmarche, nor the presence of Abonmarche at a project construction site, shall impose any duty on Abonmarche, nor relieve the construction contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the construction work in accordance with the plans and specifications and any health or safety precautions required by any regulatory agencies or applicable law. Abonmarche and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The Client agrees that the construction contractor shall be solely responsible for jobsite and worker safety.
23. **ADA and Code Compliance.** The Americans with Disabilities Act (ADA) provides that alterations to a facility must be made in such a manner that, to the maximum extent feasible, the altered portions of the facility are accessible to persons with disabilities. The Client acknowledges that the requirements of ADA will be subject to various and possibly contradictory interpretations. To the extent applicable, Abonmarche will use its reasonable professional efforts and judgement to interpret ADA requirements and other federal, state, and local laws, rules, codes, ordinances, and regulations as they may apply on the Project. Abonmarche does not warrant or guarantee that the Project will comply with all interpretations of the ADA requirements and/or the requirements of other federal, state and local codes, rules, laws, ordinances, and regulations as they may apply to the Project. Client shall pay Abonmarche its customary hourly fees plus reimbursable expenses for any design changes made necessary by newly enacted laws, codes and regulations, or changes to existing laws, codes, or regulations after the date that this Agreement is executed.
24. **Notice of Lien Rights.** Abonmarche hereby notifies, and the Client acknowledges that Abonmarche has lien rights on the Client's land and property when Abonmarche provides labor and materials for Projects on the Client's land and the Client

does not pay for those services except when the Client is a governmental agency and lien rights do not apply.

25. **Legal Expenses.** If Abonmarche brings a lawsuit against the Client to collect invoiced fees and expenses, the Client shall be legally liable to pay Abonmarche's expenses, including its actual attorney fees and costs.
26. **Liability Limitation.** In recognition of the relative risks and benefits of the Project to both the Client and Abonmarche, the risks have been allocated such that Client agrees, to the fullest extent permitted by law, and not withstanding any other provision of this Agreement, to limit the total liability, in the aggregate, of Abonmarche and Abonmarche's officers, directors, partners, employees, shareholders, owners and subconsultants, for any and all claims, losses, costs, or damages of any nature whatsoever, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever or claims and expenses resulting from or in any way related to the Project or the Agreement from any cause or causes shall not exceed the total compensation received by Abonmarche under this Agreement, or the total amount of \$50,000, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action, including without limitation active and passive negligence, however alleged or arising, unless otherwise prohibited by law. In no event shall Abonmarche's liability exceed the amount of available insurance proceeds. Client acknowledges that Abonmarche is a corporation and agrees that any claim made by Client arising out of any act or omission of any director, officer, or employee of Abonmarche, in execution or performance of this Agreement, shall be made against Abonmarche and not against such director, officer, or employee.
27. **Contractor and Subcontractor Claims** The Client further agrees, to the fullest extent permitted by law, to limit the liability of Abonmarche and Abonmarche's officers, directors, partners, employees, shareholders, owners and subconsultants to all construction contractors and subcontractors on the Project for any and all claims, losses, costs, damages of any nature whatsoever or claims and expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of Abonmarche and Abonmarche's subconsultants to all those named shall not exceed \$50,000, or Abonmarche's total fee for services rendered on this project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising unless otherwise prohibited by law.
28. **Consequential Damages.** The Client and Abonmarche waive consequential damages for claims, disputes, or other matters in question relating to services provided as a part of this Agreement, including for example, but not limited to, loss of business.
29. **Governing Law.** This Agreement will be deemed to have been made in the location where the services are performed, and shall be governed by and construed in accordance with the laws of that state.
30. **Exclusive Choice of Forum.** Each party irrevocably and unconditionally agrees that it will not bring any action, litigation, or proceeding against any other party in any way

arising from or relating to this Agreement in any forum other than the courts of the state and county where the work is performed. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of those courts and agrees to bring any such action, litigation, or proceeding only in those courts. Each party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

31. **Considerations.** The successors, executors, administrators, and legal representatives of the Client and Abonmarche are hereby bound onto the other with respect to the covenants, Agreements, and obligations of this Agreement.
32. **Acts of God.** Neither the Client nor Abonmarche will have any liability for nonperformance caused in whole or in part by causes beyond Abonmarche's reasonable control. Such causes include, but are not limited to, Acts of God, civil unrest and war, labor unrest and strikes, acts of authorities, and events that could not be reasonably anticipated.
33. **Termination.** Either the Client or Abonmarche may terminate this Agreement by giving ten (10) days written notice to the other party. In such an event, the Client will pay Abonmarche in full for all services previously authorized and performed prior to the effective date of the termination, plus (at the discretion of Abonmarche) a termination charge to cover finalization of services necessary to bring ongoing services to a logical conclusion. Such charge will not exceed thirty (30) percent of all charges previously incurred. Upon receipt of such payment, Abonmarche will return to the Client all documents and information that are the property of the Client. If the Client fails to make payment to Abonmarche in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by Abonmarche.
34. **Severability.** In the event that one or more provisions contained in this Agreement are declared invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of the Agreement shall not be affected or impaired.
35. **Dispute Resolution.** Any claims or disputes made during design, construction or post-construction between the Client and Abonmarche shall be submitted to non-binding mediation. The Client and Abonmarche agree to include a similar mediation agreement with all contractors, sub-contractors, sub-consultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties. The mediation shall be governed by the then current Construction Industry Mediation Rules of the American Arbitration Association ("AAA"). Mediation shall be a condition precedent to the initiation of any other dispute resolution process, including court actions.
36. **Entire Agreement.** This Agreement contains the entire agreement between the parties and there are no agreements, representations, statements, or understandings which have been relied on by the parties which are not stated in this Agreement.

[End of Agreement](#)